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**PERSTEMPO LEGISLATION:
WAR ON TERRORISM AND BEYOND**

BY

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ABSTRACT

AUTHOR: LTC Donald A. Bartholomew
TITLE: PERSTEMPO Legislation: War on Terrorism and Beyond
FORMAT: Strategy Research Project
DATE: 09 April 2002 PAGES: 28 CLASSIFICATION: Unclassified

Personnel Tempo (PERSTEMPO) of service members was addressed in the National Defense Authorization Acts (NDAA) of 2000 and 2001. PERSTEMPO legislation outlined reporting requirements regarding deployments of soldiers, airmen, sailors, and Marines never before seen by the services. PERSTEMPO legislation caused the services to develop new systems to capture detailed information on the deployments of service members in order to comply with a complex requirement for approving and paying per diem for high-deployment service members. The current national emergency involving the war on terrorism now calls for re-evaluation of the PERSTEMPO legislation. This paper reviews the original intent of the legislation, its current status in the Department of Defense, and specifically the Army, and examines future options that balance the needs of Congress, the services and individual service members.

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PERSTEMPO LEGISLATION: WAR ON TERRORISM AND BEYOND

Personnel Tempo (PERSTEMPO) of service members was addressed in the National Defense Authorization Acts (NDAA) of 2000 and 2001. This PERSTEMPO legislation outlined reporting requirements regarding deployments of soldiers, airmen, sailors, and Marines never before seen by the services. PERSTEMPO legislation caused the services to develop new systems designed to capture detailed information on the deployments of service members in order to comply with a complex requirement for approving and paying per diem for high-deployment service members. The current national emergency involving the war on terrorism now calls for re-evaluation of the PERSTEMPO legislation. This paper reviews the original intent of the legislation, its current status in the Department of Defense (DoD), and specifically the Army, and examines future options that balance the needs of Congress, the services and individual service members.

BACKGROUND

Concern over high levels of PERSTEMPO on the force is not a new phenomenon. PERSTEMPO legislation was the result of a number of years worth of congressional visits to the field where members of Congress and their staffers heard concerns voiced by military personnel about time deployed.¹ Those concerns were a dramatic contrast from the official unit readiness assessment reports forwarded through service headquarters to the Joint Chiefs of Staff (JCS), and to the Office of the Secretary of Defense (OSD). Historically, readiness of the U.S. military at the unit level was measured using the Status of Resources and Training System (SORTS). Under SORTS, units report their overall readiness status as well as the status of four resource areas: personnel, equipment and supplies on hand, equipment condition, and training. In 1997, the General Accounting Office (GAO) claimed that the formal system was overly optimistic in its readiness assessments, indicating that there were many shortcomings in SORTS that needed to be addressed.² One of those areas was the: “--lack of emphasis on readiness on a long-term basis, contrasted with the snapshot in time currently provided.”³ As a result, the GAO made several recommendations to correct this shortfall, recommendations targeted toward helping DoD identify indicators most relevant to developing a more comprehensive readiness assessment. The GAO also called for comparable data to be maintained by all services to allow the development of trends on the selected indicators.⁴

GAO had previously reported on readiness issues in April of 1996. Specifically on PERSTEMPO, GAO noted that DoD could not precisely measure the increase in deployments as only the Navy had systems to track PERSTEMPO. While SORTS data indicated that units showed a fairly stable level of overall unit readiness, GAO visits to the field uncovered comments from military personnel at major commands who expressed concerns about the adverse effect on readiness resulting from high levels of operational tempo (OPTEMPO) and frequent deployments away from home.⁵ In his testimony to Congress in 1997, the Director of Military Operations and Capabilities Issues, National Security and International Affairs Division of the GAO, Mr. Mark E. Gebicke indicated that there remained concerns that not enough attention was being given by the services to ensure the accuracy and completeness of SORTS data. Mr. Gebicke's recommendation included the development of broader capabilities for measuring readiness. In some cases, he suggested using existing databases, but in the case of PERSTEMPO, he recommended a new data base that captured information that had previously not been kept. With the GAO input, Congress was now being provided more information that supported the need for immediate changes to the way the services were tracking readiness.⁶

The Quadrennial Defense Review of 1997 stated that the military would see readiness challenges in the near future based on increased personnel tempo. It stated, "Finally, if not adequately managed, the demand for peacetime operations, coupled with a smaller force, could overstress personnel operating tempo and take its toll of the quality of life of military personnel that is the foundation of long-term readiness."⁷

While speaking to the Military Readiness Subcommittee of the House National Security Committee on DoD's Quarterly Readiness Reporting System in March of 1998, the Honorable Louis C. Finch, Deputy Under Secretary of Defense for Readiness, stated that the services were developing "new Service TEMPO management systems" to address the high levels of PERSTEMPO.⁸ Congress had only been requiring the services to provide Active Duty Military Personnel Strengths by regional area and by country. These statistics included those service members who participated in exercises while OCONUS.

PERSTEMPO LEGISLATION

Beginning in 1999, Congress indicated that generic numbers of service members by locations were not all that they were interested in when it came to the deployment of forces. As part of the National Defense Authorization Acts of Fiscal Years 2000 and 2001 (NDAA FY2000 and NDAA FY2001), Congress passed a series of provisions that require each service to limit the amount of time a service member spends away from his or her home, or to compensate that

soldier for the deployed time. With the passing of the National Defense Authorization Act of FY2000, Congress clearly stated that the services have to achieve a better balance between:

... readiness and operational requirements on the one hand, and the effects of personnel turbulence and individual tempo. Such improvements are important to enhancing the quality of life and thus the retention of trained, qualified service members. Failure to improve the management of operations tempo and personnel tempo could result in the continued loss of trained personnel, a consequent loss of readiness capability, and an increased recruiting challenge. For those reasons, Congress directs the senior leadership of the Services to be directly involved in the management of deployments.⁹

Pursuant to the enactment of PERSTEMPO legislation, PERSTEMPO came to be defined as:

the amount of time members of the armed forces are engaged in their official duties, including official duties at a location or under circumstances that make it infeasible for a member to spend off-duty time in the housing in which the member resides when on garrison duty at the member's permanent duty station or in member's home port in the case of a member permanently assigned to a vessel, and for a Reserve component member, in the member's permanent civilian residence.¹⁰

OPTEMPO was defined as the rate at which units of the armed forces are involved in all military activities, including contingency operations, exercises, and training deployments.

KEY ELEMENTS OF PERSTEMPO LEGISLATION

The National Defense Authorizations Acts of FYs2000/2001 contained key elements that had previously not been addressed or found in past legislation. The new law requires DoD to track and monitor the operations tempo and personnel tempo of the armed forces (active, guard and reserve) and to establish, to the extent practicable, uniform standards within DoD for terminology and policies relating to deployment of units and personnel away from their assigned duty stations. Flag officers were now charged with managing the program within their respective services to the extent that they had to personally approve the continued deployment of military members beyond specific thresholds. The legislation also required the services to establish a system for tracking and recording the number of deployment days for each member of the armed forces, pay high-deployment per diem to service member when they exceeded the legislatively established deployment thresholds, and provide PERSTEMPO input to Congress each year in the Secretary of Defense's annual report.¹¹

DEPLOYMENT RE-DEFINED

Under the new provisions, the definition for deployments changed dramatically. What had previously been routine local training was now considered a deployment by Congressional standards. NDAA FY2000 defined deployment in this way:

A member of the armed forces shall be considered to be deployed or in a deployment on any day on which, pursuant to orders, the member is performing service in a training exercise or operation at a location or under circumstances that make it impossible or infeasible for the member to spend off-duty time specified in paragraphs (1) and (2).¹²

This was a significant change to the definition of deployment the Army had used in the past. While certain administrative functions were performed when soldiers went on Temporary Duty (TDY) or were sent to field training exercises (FTX), there was no existing Army database that tracked these absences as deployments. The lack of an inclusive system would become critical when trying to determine the future per diem costs associated with the new definition.

HIGH-DEPLOYMENT PER DIEM

NDAA FY2000 provided for the payment of high-deployment per diem (\$100/day) for the service member for each day over 250 out of the previous 365 days. The Department of Defense was able to successfully lobby a change to the NDAA FY2001 that amended the threshold days for payment of per diem to 401 or more days out of the preceding 730 days. This provided a management window of two years for pay purposes. However, the payment of high-deployment per diem remained an issue for the services. Congress did not provide for an increase in the services' budgets to pay for this new level of per diem, estimated by the Army to be \$8.8 million per year.¹³ While the Congress did not indicate the purpose for including the high-deployment per diem, it is widely believed to have been inserted into the law to provide an incentive for flag officers to limit the number of days they approved for "high-deployment" soldiers ("high-deployment" personnel defined as those who exceed 182 days within a 365 day period). Commanders were expected to be faced with the dilemma of spending dollars on readiness issues or on high-deployment per diem for soldiers. Congress left it to the services' discretion as to which account would be the source for this unprogrammed requirement. The first payment of high-deployment per diem to soldiers was possible beginning 5 November 2001. Several of the services, including the Army, had plans to take the money from the Military Pay Account (MPA). However, this approach did not have the desired effect Congress wanted on the field commanders, specifically to cause friction between operational requirements and personnel management. As a result, Congress specified in the NDAA FY2002 that payment

would come from the Operations and Maintenance (O&M) accounts, thereby directly affecting the day to day operations of each unit.¹⁴

FLAG OFFICER PARTICIPATION

The PERSTEMPO legislation also required the management of deployed personnel by flag officers within each of their respective services. Flag officers were charged with personally approving the continuous deployment of a service member beyond the congressionally set days for those defined as "high-deployment" personnel. This meant that the first general officer (could not be delegated) in the soldier's chain of command had to personally approve the "deployment" event for those soldiers whose total number of days would exceed 182 in the last 365-day rolling window. The four-star general in the chain of command had to approve each and every deployment event for those soldiers whose total number of days would exceed 220 in the last 365-day rolling window. The approval authority for soldiers to be deployed beyond 220 days who are assigned to Major Army Commands (MACOMs) not commanded by a four-star general, would be the Vice Chief of Staff of the Army (VCSA).¹⁵ This meant that even a simple event such as a two-day Temporary Duty (TDY) trip for a high-deployer over 220-days would require the personal approval of a four-star general. The Department of the Navy estimated that 72,000 sailors would have required flag officer approval to continue their deployment as of October 2001.¹⁶ The Department of the Navy expressed concerns over the number of sailors on shipboard duty who would routinely accumulate the number of "high deployment" days that would surpass the statutory management gates. This not only put a substantial number of sailors at the brink of exceeding the pay thresholds for high deployment, but caused challenging administrative burdens and more importantly, left little room for emergency surge capability without exceeding the existing thresholds.¹⁷

REPORTING REQUIREMENTS

NDAA FY2000 laid out reporting requirements regarding "deployments" for the services that were far more detailed than any found in the past. Congress now called for a detailed report at the end of the fiscal year for each service, outlining the types of operations tempo and personnel tempo. A specific table depicting the active duty end strength for each of the armed forces, going back five years, was now required, identifying the active and reserve component units of the armed forces participating at the battalion, squadron, or an equivalent level in contingency operations, major training events, and other exercises. Each service was required to show the average number of days a member of that armed forces was deployed away from home station as compared to recent previous years. According to the law, each service is to

report the number of days that high-demand, low density units (a unit with a relatively high utilization rate with little or no redundancy in capability from similar type units)¹⁸ are deployed in accordance with the personnel tempo policies applicable to that branch of service. As stated earlier, none of the services had a system in place that could readily capture this detailed information.

WAIVER FROM THE LAW

NDAA FY2000 did provide for a National Security Waiver to the PERSTEMPO legislation that allows Secretaries of the military departments to suspend the applicability to a member, or any group of members under their jurisdiction when they determined that such a waiver is necessary in the national security interests of the United States.¹⁹ Under a separate provision, the law also allowed for the suspension of payment of per diem if the National Security Waiver had been put into effect.²⁰ While no explanation was placed into the law, it is believed the waiver was incorporated to recognize that there would be occasions beyond the control of the services which required significant levels of deployment. To further restrict the services from deploying the forces required to conduct critical missions would be potentially damaging to the nation and result in undue risk on the part of the services.

AMERICA'S WAR ON TERRORISM

On 8 October 2001, the Deputy Secretary of Defense, Paul Wolfowitz exercised the PERSTEMPO legislation waiver provisions as a direct result of the 11 September 2001 attacks and Executive Order 13223.²¹ Executive Order 13223 (EO 13223) ordered the Ready Reserve of the Armed Forces to active duty and delegated certain authorities to the Secretary of Defense and the Secretary of Transportation. The first two sections of EO 13223 provide for specific authority to the Secretary of Defense when planning for the response to the terrorist attacks:

Section 1. To provide additional authority to the Department of Defense and the Department of Transportation to respond to the continuing and immediate threat of further attacks on the United States, the authority under title 10, United States Code, to order any unit, and any member of the Ready Reserve not assigned to a unit organized to serve as a unit, in the Ready Reserve to active duty for not more than 24 consecutive months, is invoked and made available, according to its terms, to the Secretary concerned, subject in the case of the Secretaries of the Army, Navy, and Air Force, to the direction of the Secretary of Defense. The term "Secretary concerned" is defined in section 101(a)(9) of title 10, United States Code, to mean the Secretary of the Army with respect to the Army; the Secretary of the Navy with respect to the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Navy; the Secretary of the Air

Force with respect to the Air Force; and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

Section. 2. To allow for the orderly administration of personnel within the armed forces, the following authorities vested in the President are hereby invoked to the full extent provided by the terms thereof: section 527 of title 10, United States Code, to suspend the operation of sections 523, 525, and 526 of that title, regarding officer and warrant officer strength and distribution; and sections 123, 123a, and 12006 of title 10, United States Code, to suspend certain laws relating to promotion, involuntary retirement, and separation of commissioned officers; end strength limitations; and Reserve component officer strength limitations.²²

The two PERSTEMPO provisions suspended by the Deputy Secretary of Defense (DEPSECDEF) included the management by flag officers and the payment of high-deployment per diem by the services. The requirement to continue to track and report deployments for each of the services remained in place. As indicated by a portion of the DEPSECDEF's memorandum: "tracking and reporting is important since past operations have proven that such data collection is valuable in developing after action reports, replying to queries, or accomplishing analyses relating to the scope of the operations."²³ By instituting the waiver provisions, while still adhering to the intent of Congress, the Department of Defense was able to avoid additional costs and send the necessary service members (without regard to current PERSTEMPO counters) to the fight on terrorism during this time of increased deployments. Prior to the events of 11 September 2001, the Department of the Navy estimated the cost of the high-deployment per diem to be \$33 million for FY02 and \$118 Million in FY03 despite the significant changes they made in their operating and business practices. If the waiver had not been instituted, the Navy estimated that after 11 September 2001, the per diem would have increased to \$49/193.6 million for the two years respectively.

THE PROLONGED FIGHT ON TERRORISM

The waiver from the Deputy Secretary of Defense was based on the fact that the fight on terrorism will be by all accounts a long, protracted fight. This has been stated by a number of the nation's key leaders, beginning with President Bush on 12 September 2001:

This enemy attacked not just our people, but all freedom-loving people everywhere in the world. The United States of America will use all our resources to conquer this enemy. We will rally the world. We will be patient, we will be focused, and we will be steadfast in our determination. This battle will take time and resolve. But make no mistake about it: we will win.²⁴

The President reinforced his comments just days later in a radio address to the Nation on 15 September 2001 indicating once again to the country that this fight will be a sustained fight against terrorism:

Victory against terrorism will not take place in a single battle, but in a series of decisive actions against terrorist organizations and those who harbor and support them. We are planning a broad and sustained campaign to secure our country and eradicate the evil of terrorism...You will be asked for your patience; for, the conflict will not be short. You will be asked for resolve; for, the conflict will not be easy. You will be asked for your strength, because the course to victory may be long.²⁵

The message from President Bush was consistent and clear. He not only prepared the public, but the military as well for a lengthy campaign. On the six-month anniversary of the attacks, President Bush maintained the message of a protracted war when he stated:

Now that the Taliban are gone and al Qaeda has lost its home base for terrorism, we have entered the second stage of the war on terror—a sustained campaign to deny sanctuary to terrorists who would threaten our citizens from anywhere in the world.

...We're fighting a fierce battle in the Shah-i-kot Mountains, and we're winning. Yet, it will not be the last battle in Afghanistan. And there will be other battles beyond that nation.

...In the current stage of the war, our coalition is opposing not a nation, but a network. Victory will come over time, as that network is patiently and steadily dismantled. This will require international cooperation on a number of fronts: diplomatic, financial and military. We will not send American troops to every battle, but America will actively prepare other nations for the battles ahead. This mission will end when the work is finished—when terror networks of global reach have been defeated. The havens and training camps of terror are a threat to our lives and to our way of life, and they will be destroyed.

...Gathered here today, we are six months along—a short time in a long struggle. And our war on terror will be judged by its finish, not by its start. More dangers and sacrifices lie ahead. Yet, America is prepared....Every nation should know that, for America, the war on terror is not just a policy, it's a pledge. I will not relent in this struggle for the freedom and security of my country and the civilized world.²⁶

The message of a time-consuming fight was echoed down the chain of command. The Secretary of Defense, Donald H. Rumsfeld on 20 September 2001, reinforced the words of President Bush at a Pentagon Press Briefing when he stated that the United States will take the effort to the terror networks, but that doing so would take time; "it's a marathon, not a sprint."²⁷ Secretary Rumsfeld followed those remarks on 25 September 2001, stating that the public

should not look for just a military response: "We do intend to have the entire United States government engaged in this over a sustained period of time."²⁸

After the 11 September attacks, the services began to analyze the new manning requirements that may be needed to fight the war on terrorism.²⁹ Manning the armed forces to meet mission requirements impacts the PERSTEMPO. In the Clinton administration's national security strategy, the services were structured and equipped to fight two simultaneous Major Theaters of War (MTWs).³⁰ While the Bush administration has not yet published a National Security Strategy, President Bush has further defined the services' role to include the worldwide fight on terrorism.³¹ General Shinseki told members of Congress that the Army "is still too small for its mission profile," something that he stated at the start of his tour as Chief of Staff in June 1999.³² There is a reluctance on the part of the Senate to approve additional forces for the services when they have had difficulty in the past meeting their recruiting and retention goals.³³ All of the services are confident that they will meet the current year recruiting goals (FY2002), but any end-strength increase is unlikely because "neither the Congress nor the services appears willing to take the lead in proposing changes."³⁴ Certain Members of Congress believe that the implementation of the Stop-Loss programs by the services (discussed below) and the activation of reserve soldiers indicates that the current structure is insufficient.³⁵

ENGAGEMENT OF THE SERVICES

A greater number of forces from each service are deployed all over the world to fight the battle against terrorism as described above. The Air Force, supported by Airborne Warning And Control System (AWACS) from NATO, flew air caps on a variety of cities across the United States, conducting precision bombing in Afghanistan and providing airlift support around the world. Navy and Marine Corps units were on a heightened state of alert providing maximum carrier presence around the world. Selected U.S. Army Reserve Component assets are deployed throughout CONUS and OCONUS in this fight. As of 24 February 2002, over 34,000 Army National Guard soldiers were mobilized/alerted for federal service and state active duty for missions that include: border mission, airport security, force protection, overseas mission support and Immediate Response Teams (IRTs).³⁶

Department of the Army Actions

In November 2001, the Army found it necessary to implement a program of stop-loss for a variety of career-management fields and military occupational specialties to retain those critical skills needed in support of Operations ENDURING FREEDOM and NOBLE EAGLE.³⁷ Critical

skill categories are being reviewed on a monthly basis. Those service members affected by the initial policy included special forces, aviators, intelligence technicians, military police, and foreign area specialists for Eurasia and the Middle East. This program was directed at all components and potentially will retain 2600 active, 2900 reserve and 4100 guard soldiers.³⁸ Given the length of the potential conflict and the uniqueness of the types of missions being conducted, there is no reason to believe that the demand for those skills will diminish in the near future. We should expect more skills to come into higher demand. The ability for the services to substitute for those soldiers currently deployed will be reduced substantially as the conflict drags on. Active, Guard and Reserve soldiers who possess particular specialties that are in high demand during this fight on terrorism will certainly accumulate a high number of deployed days.

Departments of the Navy/Air Force Actions

The Department of the Navy is also retaining certain specialties in the active and ready reserve force who were essential to the national emergency of the United States.³⁹ The Navy's Stop-Loss program affected 10,500 sailors in a total of eleven specialties. The Navy's focus was on the retention of Special Operations officers, Cryptologic officers, enlisted Seal members, certain special warfare combatant craft crewmen (SWCC), Explosive Ordnance specialists, physicians/nurses, and those with specific language skills. The Air Force implemented a Stop-Loss Program in October 2001 that was more encompassing than the other services in terms of specialties, covering thousand of officers and airmen. In February 2002, operational requirements allowed the Chief of Staff of the Air Force to release 24 officer and 40 enlisted specialties from the Air Force Stop-Loss Program.⁴⁰ Like the other services, the Air Force is conducting regular reviews of their operational needs to support Operations NOBLE EAGLE and ENDURING FREEDOM to determine future changes to the Stop-Loss Program.

TRACKING CONTINUES, OR DOES IT?

The memorandum from the Deputy Secretary of Defense announcing the waiver for payment and flag officer management reinforced the requirement of the services to continue tracking PERSTEMPO events in their respective systems. The PERSTEMPO web-based database tracking for the Army is especially vital since the entries into the standard personnel database (SIDPERS) that previously captured the deployment data of each soldier had been turned off on 1 October 2000. While the tracking of the services for PERSTEMPO events has

continued, data from the Army in Table 1 below indicates a reduction of over 50% in reporting of the frequency of the events into the PERSTEMPO web-based database.⁴¹

Month	New events added by users during the specified month	Events occurring during the specified month	Soldiers deployed sometime during the specified month
Apr 2001	89,183	118,566	102,869
May 2001	106,956	111,155	96,378
Jun 2001	139,379	94,142	83,290
Jul 2001	88,663	88,267	76,859
Aug 2001	112,834	103,422	88,913
Sep 2001	105,622	94,893	82,928
Oct 2001	80,594	76,198	68,260
Nov 2001	48,863	75,512	67,583
Dec 2001	38,701	49,329	46,391
Jan 2002	56,201	55,416	50,965
Feb 2002 (*)	30,122	38,739	37,501

(*) February counts are as of 2/13/2002⁴²

TABLE 1 PERSTEMPO REPORTING STATISTICS (SUMMARY) FOR PERIOD APRIL 2001 – FEBRUARY 2002

Data problems for the Army are compounded by inconsistent input of information from the reserve forces. Batch processing for the Army Reserves is being worked with limited success and many work-around methods. There is currently a challenge with the lack of data input from the Army National Guard data into the web-based PERSTEMPO system.⁴³ The Army National Guard has been unsuccessful in establishing its own data feed into the web-based system. As a result, the accuracy of the Army's current data base is in question and may become a challenge when trying to reconstruct the history of a reserve component soldier brought on active duty. During the time when mobilization of the Army National Guard forces has increased

(post 11 September), the total number of soldiers deployed reported as has gone down significantly.

WHAT SHOULD BECOME OF THE PERSTEMPO LAW?

In November 2001, an Army spokesperson indicated that the per diem waiver would be lifted once the national emergency was over.⁴⁴ However, based on the statements by senior leaders, this emergency will be a multi-year event. The questions are many, starting with what should become of the PERSTEMPO legislation? If payments are re-instated, what procedures would be used to determine the amounts? Some indications point to the fact that payments by the services for any soldier who would have exceeded the high-deployment days will not be required. The precedent for such an event may have been established when the law was put into effect on 1 October 2000. Congress did not require the services to count any deployments prior to 1 October 2000, even for those service members whose deployments were on-going at the time.

DATA COLLECTION

The type of data which will be available if the decision is made to pay soldiers depends on a variety of factors: the length of time the waiver is in place, the accuracy of the data, and the completeness of the web-based PERSTEMPO system. If the current trend of fewer and fewer deployment inputs continues, the Army will find it difficult if not impossible to reconstruct their deployment database. Neither the Navy nor the Army tracking systems currently has the ability to distinguish between those "suspended deployed days" from the non-suspended days that have been accumulated.⁴⁵

PER DIEM PAYMENTS

The Army made significant efforts beginning 1 October 2000, to educate the entire force on the benefits and requirements associated with data input of PERSTEMPO events. Press releases, policy guidance, and implementation instructions received the widest dissemination beginning October 2000. Many soldiers developed a certain level of expectation for their deployed days.

The waiver from the Deputy Secretary stopped the payment of per diem for high-deployment soldiers in October 2001. While not specified in the law, it could be argued that Congress was under the impression that the majority of the per diem paid by the services would be to lower enlisted soldiers. Many soldiers would have been eligible for first payments of per

diem in November 2001, if the suspension had not been put into effect. According to the Army, some of the first recipients of "high-deployment" per diem would likely have been senior leaders, to include flag officers and senior enlisted.⁴⁶ The waiver within the law provides for the service secretaries to suspend applicability to a member or any group of members in the national security interests of the United States. Effective 1 November 2001, Army soldiers no longer received a PERSTEMPO counter on their Leave and Earnings (LES) statement. Other than verifications during a Permanent Change of Station (PCS) or separation from the service through retirement or Expiration of Term of Service (ETS), no other timeframe has been established for soldiers to review the accuracy of data in the web-based PERSTEMPO system. Visibility for the individual soldier as of this date has been lost.

OPTIONS FOR THE PERSTEMPO LEGISLATION

Congress has a number of options for amending the PERSTEMPO legislation given the current circumstances. One, they could allow the law to remain in effect as written and pick up with individual counters using the deployed days accrued prior to the waiver time period. Two, Congress could apply some or all of the recommendations from the services to improve the legislation while restarting the clocks for all of the service members. Three, Congress could pass a provision that says, after a set number of years with the waiver in place, the legislation dies a quiet death and goes away. If the law remains, consideration should go to those portions of the legislation that improve the services' ability to maintain ready forces.

OPTION ONE: Allow the law to remain in effect as written. Under the first option, Congress could keep the current legislation, requiring the services to track individual deployments and provide annual reports that meet their needs. As of the date the current National Security Waiver is lifted, Congress could require the services to pick up where they left off on 8 October 2001 in terms of individual counters for service members. In order to get accurate data, each service would have to recover data that has been admittedly incomplete under the current collection measures. While not impossible to reconstruct, each of the services would expend a great deal of resources to accurately reflect data. The existing administrative and budgetary requirements of the legislation, would remain in effect. The operational implications of such a move would be significant for each of the services. With the expense estimated by the Navy alone under the current circumstances, clearly tough decisions between "high deployment" per diem and other readiness issues would face all of the services.

OPTION TWO: Apply some or all of the recommendations from the services, put them into effect immediately or once the waiver is lifted and restart the clocks for all of the service

members. With the second option, Congress could take some of the recommendations from each of the services to ease the current administrative burdens and budget shortfalls, maintain the waiver provision as written into the legislation and obtain useful deployment data in the annual reports to Congress. Many recommendations by the services would improve the process while leaving the necessary friction between operational commitments and personnel management. Some of the changes proposed by the services which could be adopted by Congress include the elimination of flag officer management for “high deployment” service members and the recalibration of “high deployment” per diem to a monthly benefit instead of a daily penalty. For example, the Navy proposed that high-deployment per diem be recalibrated from a daily penalty to a monthly benefit to the service member. Using the existing pay window of a rolling 730-day pay period, pay \$100/month over 425 days, \$200/month over 450 days and \$300/month over 500 days.⁴⁷ One of the Army’s recommendations was to allow the service secretaries to exclude selected members from eligibility of high-deployment per diem where it is in the best interest of the service.⁴⁸ By restarting the clocks at the end of the fight on terrorism, Congress will have accomplished several things. Congress would be able to reinforce to the service members that there is a distinction between what is expected of them during times of conflict and times of peace. They are also able to remove additional barriers from the services’ ability to do what is necessary to have the highest level of readiness for the duration of national emergencies. Congress would still get the necessary annual reports they desire. Portions of the data collection that support the annual reporting requirements to Congress should remain if they can be valuable in establishing worthwhile metrics for readiness and retention.

OPTION THREE: Pass a provision that kills the current legislation based on the war on terrorism. After a reasonable period of time, perhaps two years, Congress could quietly take the PERSTEMPO law off the books with the justification that the war on terrorism is a long term event. By doing so, they would then place the responsibility of evaluating the effects of deployment on retention and readiness back on the services. Some may argue that the services have failed to properly evaluate the effects of deployment in the past. Past reports to Congress did not contain detailed deployment information, thus the services chose not to gather certain deployment data that may have been needed and useful. The Department of Defense has recognized that there need to be tools for the services to achieve the balance between readiness/operational requirements and personnel turbulence that effects recruiting and retention. Once DoD is able to establish metrics and successfully analyze the data associated with individual and unit deployments, the services would realize the benefit of collecting the current information required by the legislation.

RECOMMENDATIONS AND CONCLUSION

Option Two outlined above is recommended as the best for the services and Congress. This option would continue to require the services to provide the detailed data to Congress that may otherwise not be collected unless required by the law. This option recognizes that the legislation can be improved to reduce the administrative burden on the services, providing additional debate on how best to manage the continuous deployment of "high deployment" service members. This option reduces but does not eliminate the budget concerns for the services that have struggled with juggling limited resources in the past. By retaining the "high deployment" per diem requirement, and directing the O&M portion of the budget as the source, the pressure remains on the services to make the proper choice when identifying deploying service members.

With any path PERSTEMPO legislation takes in the future, the services must improve the accuracy of the input into their respective tracking systems now. First and foremost they must demonstrate to Congress that they can track and better manage the deployment process, executing programs which have long-term benefits. DoD should continue to require information from the services which contributes to the establishment of metrics that support retention and recruiting efforts. Special consideration should be given to review the data by specialty and grade to determine if changes to the future force structures of each service are necessary. The services should seriously analyze potential unintended consequences that would result if the current legislation remains in place after the current waiver is lifted. Finally, services should explore ways to reduce PERSTEMPO and enhance readiness through the many interdependent aspects of individual tour lengths, deployment cycles, unit training, professional development milestones, high-demand/low-density specialties, and retention and recruiting.

Word Count 6202

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¹¹"National Defense Authorization Act FY2000," U.S. Code, Title 10, sec 586; available from <<http://www-perscom.army.mil/perstempo/law/default.htm>>; Internet; accessed on 30 January 2002.

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